

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

CRAIG CUNNINGHAM,

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C.A. NO. 4:17-CV-00793

VS.

**CBC CONGLOMERATE, LLC,
ET AL**

JURY

JOINT REPORT OF RULE 26(f) CONFERENCE AND DISCOVERY PLANS

Pursuant to the Court's Order for Governing Proceedings (Dkt. 22), Plaintiff Craig Cunningham and Defendants CBC Conglomerate LLC., Bruce Phillip Good, Carey Gorge Howe, USFFC, Inc., and Jay Singh submit this Joint Report of Rule 26(f) Conference and Discovery Plan.

1. A Brief Factual and Legal Synopsis of the case.

Plaintiff's Statement:

The Plaintiff alleges the defendants placed over 100 automated calls to the Plaintiff's cell phone after the Plaintiff previously sued and settled with the defendants on the exact same number that the Plaintiff sued them for calling and violating the TCPA previously.

Defendants' Statement:

The Defendants deny liability to Cunningham. USFFC denies any involvement in the phone calls whatsoever. The Individual Defendants contend this Court lacks personal jurisdiction over them and have filed a Rule 12(b)(2) Motion to Dismiss.

2. The Jurisdictional Basis for this Suit.

Cunningham alleges federal question jurisdiction pursuant to 28 U.S.C. § 1331.

3. Parties.

The following are the correct names of the parties:

Plaintiff:

Craig Cunningham

Defendants:

CBC Conglomerate, LLC

USFFC, LLC

Bruce Phillip Hood

Carey George Howe

Jay Singh

4. A List of Cases Related to this Case.

None currently pending. Cunningham previously sued the Defendants in C.A. No. 3:15-CV-0439; *Craig Cunningham vs. CBC Conglomerate, et al*, in the United States District Court for the Middle District of Tennessee, Nashville Division. That case resulted in a settlement.

5. Initial Mandatory Disclosure.

The Plaintiff has made his initial disclosures on 3/7/2018

The Defendants made their Initial Disclosures on March 1, 2018. The Defendants are in the process of gathering documents and will supplement their Initial Disclosures.

6. Proposed Scheduling Order Deadlines.

Please see the attached Exhibit A setting forth the agreed-upon deadlines. The proposed Order uses the standard schedule.

7. Discovery Plan.

The parties estimate trial of two to three days. USFPC and CBC Conglomerate have demanded a jury trial.

- (i) The subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues.**

The parties will conduct discovery regarding Cunningham's claims and the Defendants' defenses. The Individual Defendants contend discovery regarding claims against them personally should be limited to jurisdictional issues while their Rule 12(b)(2) Motion is pending. Cunningham disagrees with the contention of the Individual Defendants.

- (ii) Any issues relating to disclosure or discovery of electronically stored information ("ESI"), including the form or forms in which it should be produced (whether native or some other reasonably usable format) as well as any methodologies for identifying or culling the relevant and discoverable ESI. Any disputes regarding ESI that counsel for the parties are unable to resolve during conference must be identified in the report.**

The parties agreed ESI should be produced in its native format.

- (iii) Any agreements or disputes relating to asserting claims of privilege or preserving discoverable information, including electronically stored information and any agreements reached under Federal Rule of Evidence 502 (such as the potential need for a protective order and any procedures to which the parties might agree for handling inadvertent production of privileged information and other privilege waiver issues). A party asserting that any information is confidential should immediately apply to the court for entry of a protective order. Unless a request is made for modification, the court will use the form found on the Eastern District website.

The parties do not have any disputes regarding asserting claims of privilege or preserving discoverable information.

- (iv) Any changes that should be made in the limitations on discovery imposed by the Rules, whether federal or local, and any other limitations that should be imposed, as well as

No changes.

- (v) Whether any other orders should be entered by the court pursuant to Federal Rule of Civil Procedure 26(c) or 16(b), (c)

The parties do not believe the Court should enter any other orders pursuant to Rule 26(c) or 16(b), (c).

8. Progress Towards Settlement.

Cunningham made a settlement demand on February 23, 2018. The Defendants have not made an offer as of the date of this Joint Report.

Mediation may be appropriate after discovery has been completed. The parties have agreed upon a mediation deadline of October 17, 2018.

9. Persons to be Deposed.

Cunningham expects to depose each of the Defendants.

The Defendants expect to depose Cunningham.

10. Estimated Trial Time/Jury Demand.

The parties anticipate trial will take two to three days. Cunningham has demanded a jury trial. CBC Conglomerate and USFFC have demanded a jury trial.

11. Attorneys Who Will Appear at the Management Conference.

Cunningham, plaintiff *pro se*, will appear at the conference.

Stewart K. Schmella, attorney for the Defendants, will appear at the conference.

12. Trial Before a Magistrate Judge.

The parties do not consent to trial before a magistrate judge.

Respectfully submitted

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PRO SE PLAINTIFF

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document was served as described below on March 9, 2018 via the Court's CM/ECF system:

Craig Cunningham

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/s/ Stewart K. Schmella

NICHOLAS J. LANZA/

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